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10/07/2004

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,948	07/14/2003	William B. Hendershot	HEND-200	6428
7590	10/07/2004		EXAMINER	
Stallman & Pollock LLP 353 Sacramento Street, Suite 2200 San Francisco, CA 94111			NGUYEN, HOANG M	
			ART UNIT	PAPER NUMBER
			3748	

DATE MAILED: 10/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/618,948	HENDERSHOT, WILLIAM B.
	<b>Examiner</b>	<b>Art Unit</b>
	Hoang M Nguyen	3748

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 20 August 2004.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-23 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____.   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

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Applicant's amendment dated August 20, 2004, has been fully considered.

Applicant has argued that Acheson et al does not disclose the concept of removing oil shale from the oil shale deposits. The Examiner disagrees. On column 1, lines 5-21, Acheson et al discloses that the subsurface formation 10 containing crude oil (oil shale), said oil shale is removed and directed upward and out of the production well 12. That is clearly equivalent with the step of removing oil shale deposit because there must be oil shale deposit on the subsurface 10 or else there is no oil shale to be removed.

For the reasons set forth above, the previous Office Action has been made final.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, 19-21, are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. 4472935 (Acheson et al).

Acheson et al discloses a power plant using oil shale comprising a combustor 38, 34, 46, for combusting oil shale, an auxiliary fuel source 55 for supplying fuel into the combustor, the output is used to drive a steam turbine power plant 88. The following is

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a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 8-10, 22-23, are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. 4472935 (Acheson et al) in view of U.S. 4193259 (Muenger et al). Acheson discloses all the claimed subject matter as set forth above in the rejection of claim 1, but does not disclose the heat input using solar refractor. Muenger is relied upon to disclose it's well known to use solar refractor for heating the working fluid. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to use solar refractor as the heat input for preheating the fluid in Acheson et al as taught by Muenger et al for the purpose of saving energy by using solar energy.

Claims 11-18, are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. 4472935 (Acheson et al). Acheson discloses all the claimed subject matter as set forth above in the rejection of claim 1, but does not disclose different types of fuels and heat input for the preheater. However, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to use different types of fuels, and to use the exhaust for preheaters in Acheson et al for the purpose of achieving appropriate work output based on different types of fuel characteristics.

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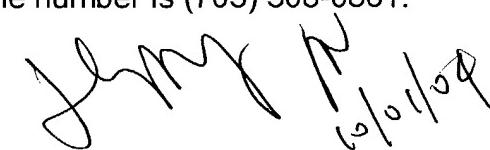
**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Examiner Nguyen whose telephone number is (703) 308-3477. The examiner can normally be reached on Monday--Thursday from 7:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Denion, can be reached on (703)-308-2623. The fax phone number for the Examiner is (703) 872-9302 for regular communication, and (703) 872-9303 for after final communication.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0861.



10/10/04

HOANG NGUYEN  
PRIMARY EXAMINER  
ART UNIT 3748

Hoang Minh Nguyen  
10/1/04